

BEFORE THE TENNESSEE REGULATORY AUTHORITY

NASHVILLE, TENNESSEE

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Re: *Petition of UNE-P Coalition to Open* )  
*Contested Case Proceeding to Declare* )  
*Unbundled Switching an Unrestricted* )  
*Unbundled Network Element* )

Docket No. 02-00207

OFFICE OF THE  
EXECUTIVE SECRETARY

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**UNE-P COALITION'S OPPOSITION TO  
BELL SOUTH TELECOMMUNICATIONS, INC.'S  
MOTION TO COMPEL RESPONSES TO DATA REQUESTS  
OR, IN THE ALTERNATIVE, MOTION TO DISMISS**

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The UNE-P Coalition submits this Opposition to BellSouth Telecommunications, Inc.'s Motion to Compel Responses to Data Requests, or, in the Alternative, Motion to Dismiss ("Motion to Compel"). BellSouth's Motion to Compel argues that "[p]etitioners' blatant refusal to provide discovery in this case should preclude their proceeding in this docket." Motion to Compel at 3. BellSouth further asserts that "the Coalition's position that it need not provide information in discovery is perplexing." *Id.* The indignant tone to BellSouth's Motion to Compel is incomprehensible in light of BellSouth's own objections to almost all of the UNE-P Coalition's discovery requests. BellSouth refused to answer 10 of 14 of the UNE-P Coalition's data requests and placed restrictions on its responses to two others. Despite BellSouth's refusal to answer the UNE-P Coalition's data requests, the UNE-P Coalition will respond to the large majority of BellSouth's data requests, as explained below.

**The UNE-P Coalition will Respond to BellSouth's Data Requests Numbers 1, 2 and 3**

BellSouth data requests numbers 1, 2 and 3 request information regarding CLEC switches. The members of the UNE-P Coalition will respond to these requests.

**The UNE-P Coalition Will Respond to Data Requests Numbers 4 Through 6, Which Request Information Regarding Access Lines, by Providing Aggregate, Rather than CLEC Specific Data**

BellSouth's data requests numbers 4 through 6 request information regarding the number and type of access lines serviced by members of the UNE-P Coalition, in addition to information regarding whether the UNE-P Coalition's members currently provide local exchange service to end-user customers with four or more DS0 lines or equivalent. In an effort to be responsive, the members of the UNE-P Coalition will answer these data requests, with the caveat that the information will be provided on a collective basis rather than on a CLEC-by-CLEC basis due to the extreme competitive sensitivity of the requested information.

As the TRA is aware, wireline information is very confidential and even the members of the Coalition are reluctant to share that information with other members. For that reason, each Coalition member will submit line count information only to the Coalition's attorneys who will then compile it into a single document for filing. This method of handling carrier-specific data is similar to the way in which the TRA itself handles the monthly wireline reports filed with the agency.

The UNE-P Coalition is not aware of reasons why BellSouth would need the information on a CLEC-by-CLEC basis and BellSouth has not provided any.

**Data Request Number 7 Asks the UNE-P Coalition to Pre-Brief the Case and Is Overly Burdensome**

Data request number 7 asks the UNE-P Coalition if the unbundled local switching exemption has prevented or made it more difficult for the members of the UNE-P Coalition to compete in the local exchange market. If yes, BellSouth requests that the UNE-P Coalition "state all facts and identify all documents that support this contention." *Id.* at 10. The UNE-P Coalition objected, noting that relevant information that supports the UNE-P Coalition's Petition

can and will be filed with Tennessee Regulatory Authority ("TRA") as part of the Coalition's testimony. The UNE-P Coalition also contended that the data request was overly burdensome. The UNE-P Coalition stands by these objections. The question of whether the unbundled local switching exemption has prevented the members of the UNE-P coalition from competing is the subject matter of this proceeding. While BellSouth is entitled to ask for specific facts relied upon by the UNE-P Coalition to support its position, the UNE-P Coalition should not be required to pre-brief the case.

In addition, setting forth all facts and documents that the UNE-P Coalition will rely upon to support its case is clearly unduly burdensome and particularly inappropriate at this early stage of the proceeding. The UNE-P Coalition cannot possibly state all of the facts and identify all of the documents upon which it will rely until after discovery has been completed and the UNE-P Coalition has had the opportunity to analyze and process the information that it has obtained from the discovery process.

All relevant facts and documents upon which the Coalition intends to rely will be pre-filed with the Authority as direct and rebuttal testimony in accordance with the procedural schedule.

**The UNE-P Coalition will Respond to Data Requests Numbers 8 Through 11 Regarding the Availability, and UNE-P Coalition's Purchase, of Switching From Carriers Other Than BellSouth**

Data requests numbers 8 through 11 ask for information regarding the availability of switching, and the UNE-P Coalition's Purchase of switching, from carriers other than BellSouth. The members of the UNE-P Coalition will respond to this request.

### **The UNE-P Coalition will Respond to Data Request Number 12 Regarding the Availability of Collocation Space**

Data request number 12 asks whether the UNE-P Coalition's members have been impeded in providing local exchange service via their own switches due to a lack of collocation space in BellSouth central offices. Moreover, it asks for all facts and documents that supports the UNE-P Coalition's position. In an effort to be responsive, the members of the UNE-P Coalition will answer this data request. However, due to the extreme competitive sensitivity of the information, the response will be provided, where appropriate, on an aggregate basis rather than a CLEC-by-CLEC basis.

### **Data Request Number 13 is Overly Broad**

Data request number 13 asks the UNE-P Coalition to produce "all documents referred to or identified in response to BellSouth's discovery requests." *Id.* at 15. The UNE-P Coalition maintains its objection that the request is overly broad. The UNE-P Coalition should not be required to produce documents that are publicly available and/or that are BellSouth documents. The UNE-P Coalition agrees to produce all documents referred to or identified in the UNE-P Coalition's responses to BellSouth's discovery requests to the extent that they are not publicly available or are not BellSouth documents.

**CONCLUSION**

For the foregoing reasons, BellSouth's Motion to Compel should be denied.

Respectfully submitted,



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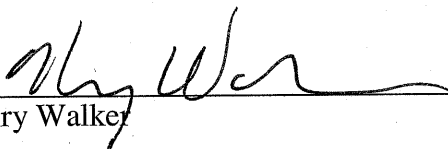
## CERTIFICATE OF SERVICE

I hereby certify that a true and correct copy of the foregoing has been forwarded via U.S. Mail, postage prepaid, to the following on this the 21<sup>st</sup> day of June, 2002.

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